IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.MC.No. 3926 of 2006()

AGAINST THE ORDER DATED / / IN LPC.64/06 IN
CC.427/2005 of JUDL. MAGISTRATE OF FIRST CLASS COURT,
PARAPPANANGADI
CRIME NO.19/02 OF TIRURANGADI POLICE.

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PETITIONER: ACCUSED

MOHAMMED KUTTY, S/O. KOYA,
KOYAPPAKOLOTH HOUSE, TIRURANGADI AMSOM,
VENNIYOOR AMSOM, KODIMARAM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.K.MOHAMED RAVUF

RESPONDENTS: STATE AND DEFACTO COMPLAINANT

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1. STATE OF KERALA, REPRESENTED BY
STATION HOUSE OFFICER, TIRURANGADI POLICE STATION,
THROUGH PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

2. SHABIDA, D/O. ALAVI,
KUTTIYATH HOUSE, MANNAMBRA AMSOM,
KODINHI DESOM, TIRURANGADI TALUK,
MALAPPURAM DISTRICT.

BY ADV. SRI.P.M.AMMU
BY P.P. SRI.GIKKU JACOB.

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R. BASANT, J.

CRL.M.C.NO. 3926 OF 2006

Dated this the 5th day of December, 2006

ORDER

The petitioner faces indictment in a prosecution, inter alia, under Sec.498A of the IPC. All other offences are compoundable. The co-accused has already been tried, found not guilty and acquitted. The petitioner was not available for trial. In these circumstances, proceedings against the petitioner continues before the learned Magistrate. The learned counsel for the petitioner submits that the matter has been settled between the parties – spouses. There is no dispute between them. The respondent/wife has already compounded the alleged offence committed by the petitioner. In these circumstances, it is not necessary to continue with this prosecution which now stands transferred to the list of Long Pending Cases. The learned counsel for the petitioner prays that invoking the powers under Sec.482 of the Cr.P.C., as explained in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386), proceedings against the petitioner may be quashed.

2. The 2nd respondent/the de facto complainant – the

divorced wife has entered appearance through counsel. Both parties have filed a joint memo. The learned counsel for the rival contestants vouch for the signatures of the contestants in the joint application.

3. I do note that the case stands transferred to the list of Long Pending Cases and there has been a default on the part of the petitioner to appear before the learned Magistrate. However, I am satisfied, in the peculiar facts and circumstances of this case, that the proceedings against the petitioner can be brought to termination by invoking the powers under Sec.482 of the Cr.P.C. Notwithstanding the fact that the offence under Sec.498A of the Cr.P.C. is not compoundable, as rightly pointed out by the learned counsel for the petitioner, the dictum in **B.S. Joshy v. State of Haryana** (AIR 2003 SC 1386) can be invoked to bring to termination this prosecution arising from the matrimonial disputes which by now have been compromised and settled between the parties.

4. In the result:

(a) This Crl.M.C. is allowed.

(b) C.C.No.427/05 (LPC No.64/06) against the petitioner shall stand quashed.

Sd/-
(R. BASANT, JUDGE)

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//true copy// **P.S. To Judge**